

To: CN=Judith Enck/OU=R2/O=USEPA/C=US@EPA[]
Cc: CN=Lenny Grossman/OU=R2/O=USEPA/C=US@EPA;CN=Eric Schaaf/OU=R2/O=USEPA/C=US@EPA;CN=Patrick Durack/OU=R2/O=USEPA/C=US;"George Meyer" [meyer.george@epa.gov]; N=Eric Schaaf/OU=R2/O=USEPA/C=US@EPA;CN=Patrick Durack/OU=R2/O=USEPA/C=US;"George Meyer" [meyer.george@epa.gov]; N=Patrick Durack/OU=R2/O=USEPA/C=US;"George Meyer" [meyer.george@epa.gov]; George Meyer" [meyer.george@epa.gov]; N=Caroline Newton/OU=R2/O=USEPA/C=US;CN=Lisa Plevin/OU=R2/O=USEPA/C=US[]; N=Lisa Plevin/OU=R2/O=USEPA/C=US[]
From: CN=Dore LaPosta/OU=R2/O=USEPA/C=US
Sent: Tue 1/8/2013 3:59:40 PM
Subject: Re: coal ash meeting

In response to your questions.

Ex. 5 - Deliberative

Ex. 5 - Deliberative We note that, beyond being located in a flood plain, the AES well field presents a number of potential environmental risk factors: it is situated adjacent to wetlands and a surface water body, the Guaymani river (which Ruth Santiago told us is used for subsistence fishing). With respect to leaching, our analysis of Agremax by the Leaching Environmental Assessment Framework reveals that Agremax leaches several heavy metals, including Arsenic. This was also, in effect, demonstrated by AES's own analyses by the Toxicity Characteristic Leaching Procedure, although AES chose to focus on the results not exceeding the regulatory standards for hazardous waste, rather than the potential environmental harm.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

We understand that AES remains opposed to the construction of a mono fill, but note that settlement discussions are still preliminary, and that we await AES's proposal, which we expect will include groundwater investigation and associated corrective action triggers and actions.

We intend to reopen discussion of a mono fill pending receipt of the proposal, as well as the implementation of physical control measures at the point of Agremax generation at the power plant, such as construction of an impervious concrete pad. One alternative to mono fill disposal that was raised involves the use of Agremax as daily cover at lined landfills on the Island. This may be a more expeditious and palatable solution for AES, given the disposal restriction they noted in their power purchase agreement, as well as for EQB, in that it could utilize a modified version of its Resolution allowing the sale of Agremax as a product.

I remain convinced that the likely solution for this matter remains with the government of PR; they need to revisit their beneficial use determination and landfilling restrictions.

Sent by EPA Wireless E-Mail Services

From: Judith Enck
To: Nancy Beck
Cc: Dore LaPosta; Lenny Grossman; Eric Schaaf
Date: 01/04/2013 03:17 PM CST
Subject: coal ash meeting

nancy: plz schedule a 45 minute meeting for next week or the following with all of the above and whomever else they want to invite to discuss aes agramax coal ash issues. dore and eric, I read the Notice of Intent to Sue from Public Justice and there are some important points raised that I would like

your responses to. ie. placing coal ash waste in a floodplain, aes test data showing elevated levels of contaminants that may present an endangerment, high levels of heavy metals, etc. there appears to be important rcra issues here that we need to discuss further. also, what are the next steps with aes to convince them to shift toward a monofill?

Judith Enck

Regional Administrator

U.S. Environmental Protection Agency

290 Broadway

New York, N.Y. 10007-1866

(212) 637-5000